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GOVERNMENT GAZETTE

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SUPPLEMENT

(SUPLEMENTO)

GOVERNMENT OF GOA, DAMAN
AND DIU

Secretariat

Planning and Development Department

Office of the Chief Electoral Officer

Notification

Following notification viz no. 82/2/64 dated 19th February, 1964 issued by the Election Commission, India, is hereby published for general information.

A. F. Couto, Chief Electoral Officer.

Panjim, 22nd February, 1964.

Election Commission, India

New Delhi, the 19th February, 1964

Notification

No. 82/2/64

In pursuance of the provisions of sub-section (I) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 2 of 1964, presented to the Commission on the 23rd January, 1964 under section 81 of the said Act, by Shri Cristovam Furtado, residing at Rua de Ourem, Panjim, Goa, calling in question the election to the Legislative Assembly of the Union Territory of Goa, Daman and Diu from the Sanguem Constituency, of Shri Sebastião Fernandes alias Tonny Fernandes, residing at Panjim.

Before the Election Commission, India
New Delhi

Election Petition no. 2 of 1964

- 1 — Cristovam Furtado, Roman Catholic
at present residing at Rua de Ourem,
Panjim — Goa. } Petitioner

Versus

- 1 — Sebastião Fernandes alias Tonny Fernandes Roman Catholic, at present residing at Panjim.
2 — Chandrakant Kakodkar, Hindu, at present residing at Cacora, Curehorem — Goa.
3 — Babal Sanvlo Tari, Hindu, at present residing at Sanguem, Goa.
4 — Mucund Ganesh Panchwadkar, Hindu, at present residing at Kurdi, Sanguem — Goa.
5 — Laxmikant Venkatesh Prabhu Bhembre, Hindu, at present residing at Zambauli, Rivona, Sanguem — Goa.
- Respondents

To,

The Election Commission, India.

Humble petition of the petitioner above named most respectfully sheweth —

1 — That the petitioner and one to five respondents were the contesting candidates for election to the Legislative Assembly of the Union Territory of Goa, Daman and Diu from Sanguem Constituency.

2 — That only one candidate was to be elected from the said Constituency.

3 — That the election of the aforesaid Constituency took place on 9th day of December 1963 and Mr. Tonny Fernandes, the first respondent above named was declared elected to the said Constituency.

4 — That the Petitioner was a candidate of the «United Goans» with an election symbol «Hand» and the said respondent no. 1 was a candidate of Maharastrawadi Gomantak Sanghatana with an election symbol «Lion».

5 — During the campaign, preceeding the election, the Maharastrawadi Gomantak Sanghatana has published a leaflet in Konkani Language with a Tomb of St. Francis Xavier on the cover page requesting the voters to vote for Maharastrawadi Gomantak Sanghatana there by arousing the religious feeling of the people and inducing them to vote for the said Sanghatana. Hereto annexed and marked Ex. * 'A' is the original copy of the said leaflet printed at Prafulla Press, Panjim. They were distributed by him in Sanguem.

* Not published.

6—That the respondent no. 1 was guilty of the following corrupt practices:

- (i) On the day of election i. e. on 9th day of December 1963 the said Tonny Fernandes himself carried in his jeep the voters and brought them to the Polls and made them to stand in queue and gave them the Identity cards with the symbol Lion and asked them to mark stamp on Lion and the Respondent No. 6 immediately objected to this and lodged a Protest to the Presiding officer Venctexa Poi Palandikar at Sanguem Polling station.
- (ii) The respondent no. 1 together with his wife distributed saris and cloth-pieces in the various villages and asked these recipients to vote for the Lion so that the Lion may make them rich and prosperous.
- (iii) That there was treating of the electorate on a very extensive scale by respondent No. 1 far exceeding the customary form of entertainment prevalent in the locality for the purpose of influencing the electorate in the Constituency and securing their good will.
- (iv) Distributed money and has taken oath from the voters and in some cases asked the hindu voters to swear by placing their hands on a cocoanut. Also promised to pay Rs. 2000/- to one Sar-Panch from his Constituency and asked him to induce the persons in his locality to vote for him. Also promised to distribute all the property belonging to Bhatkaris (land-owners) to the persons who have no property.

7—That at the Polling station at Bati of Sanguem, the Presiding officer Mr. Kalian Salelkar had been seen constantly going to the Voting compartments and requesting the voters to vote on the symbol of his choice. To this behaviour of the said Presiding officer the Polling Agent of the Petitioner Shri Anthony Sergio Furtado strongly protested on the several occasions but no notice was taken by the said Presiding officer.

8—That the Returning officer declared the result of the election on 11th December 1963 showing that respondent no. 1 was elected or returned as the candidate having obtained the largest number of votes.

The votes obtained by each candidate being:

	Votes
Respondent No 1	4581
Petitioner No. 1	1683
Respondent No. 2	173
Respondent No. 3	58
Respondent No. 4	98
Respondent No. 5	1354

9—That the result of the election so far as the returned candidate was materially affected owing to the corrupt practices committed by the respondent No. 1 and the illegalities committed by the said presiding officer.

10—That being aggrieved by the irregular and illegal practices of respondent No. 1 and on account of the illegal activities of other persons as stated above, the election of the respondent No. 1 having become Void, the Petitioner approaches you to appoint an Election Tribunal for trial of this election petition on the following amongst other grounds:

- (a) That the corrupt practices committed by respondent No. 1 as stated above have prejudiced the claims and rights of Petitioner as the result of the election so far as the election of the respondent No. 1 is concerned has been materially affected thereby;
- (b) That the corrupt practices committed by the respondent and his agents is liable to be declared Void as they are contrary to Law.

11—That a deposit of Rs. 2000/- has been made in the State Bank of India, in favour of Secretary to the Election Commission as security under S. 117 of the Representation of People Act 1951. The receipt whereof is annexed with this petition.

12—That the Petitioner therefore, most respectfully prays:

- (i) That the election of the Respondent No. 1 be declared to be void;
- (ii) That the Petitioner be declared to have been duly elected under clause (c), S. 98, Representation of People Act;
- (iii) That the cost of the Petition be awarded to the petitioner.

- (iv) That such other or further relief as may be considered suitable may be granted to the petitioner and such other orders may be passed as may be considered proper in view of the circumstances of the case.

Petition drawn by —

U. B. Surlikar, Advocate
Rua Malaca, Panjim-Goa.
Advocate for the Petitioner

Cristovam Furtado

Signed before me:

Dated this 21st day of January, 1964.

I, Cristovam Furtado, residing at Rua de Ourem, Panjim — Goa do solemnly declare and say that what is stated in the foregoing petition is true to my own knowledge.

Cristovam Furtado

Solemnly declared at Panjim — Goa,
aforesaid this 21st day of January 1964 before me.

By Order,

ROSHAN LAL

Under Secretary, Election Commission, India.

Notification

Following notification viz no. 82/3/64 dated 19th February, 1964 issued by the Election Commission, India, is hereby published for general information.

A. F. Couto, Chief Electoral Officer.

Panjim, 22nd February, 1964.

Election Commission, India

New Delhi, the 19th February, 1964

Notification

82/3/64

In pursuance of the provisions of sub-section (I) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition no. 3 of 1964, presented to the Commission on the 23rd January, 1964 under section 81 of the said Act, by Shri Francis Menezes, residing at Altinho, Panjim, Goa, calling in question the election to the Legislative Assembly of the Union Territory of Goa, Daman and Diu from the St. Estevam Constituency, of Shri Dataram Keshav Chopadekar, c/o Cafe Omprasad, Near Post Office, Panjim, Goa.

Before the Election Commission New Delhi

Election Petition no. 3 of 1964

Francis Menezes, aged years Roman Catholic, residing at Altinho, Panjim—Goa. } Petitioner

Versus

- 1) Dattaram Keshav Chopadekar, Hindu, C/o Cafe Omprasad, Near Post Office, Panjim — Goa.
- 2) Shantaram Narayan Zantye, Hindu, at present residing at Narasiva Prasad, Altinho, Panjim.
- 3) Mukund Mortu Shet, Hindu, at present residing at Cumberjua, Post Marshel, Goa.
- 4) Shencor Pandurang Sardessai, Fontainhas, Panjim, Goa.
- 5) R. K. Gupta, Returning officer for St. Estevam Assembly Constituency.

Respondents

To

The Election Commission, India.

The humble petition of the petitioner above named most respectfully sheweth.

1—That the petitioner is a Citizen of India and his name is borne on the electoral roll of the Panjim Constituency in

the Union Territory of Goa, Daman and Diu, bearing serial no. in part of the said Constituency.

2—That the name of the petitioner was duly proposed and nominated as the candidate for election from St. Estevam Constituency of the Union Territory of Goa, Daman and Diu and the nomination paper duly filed in as prescribed under the Representation of the People (Conduct of Elections Rules) and was presented by the said proposer Mr. Cosmo Pereira on 11th day of November 1963 to the respondent no. 5, the Returning officer of St. Estevam Assembly Constituency of the Union Territory of Goa, Daman and Diu at Panjim.

3—That the petitioner after handing over the nomination papers to the proposer for filing with the Returning officer proceeded to Bombay for some urgent work requesting the Proposer to attend the office of the Returning officer on 11th day of November 1963 the day fixed for accepting nominations.

4—That the said Returning officer of the aforesaid Constituency scrutinised the nomination papers submitted by the candidates seeking election to the St. Estevam Constituency including the petitioner's said nomination paper on the 13th day of November 1963.

5—That the said Returning officer rejected the nomination paper of the petitioner on the ground that the petitioner has not subscribed to an oath before the alleged time fixed for doing so.

6—That the form of oath was not provided in the application nor it was published in the Official Gazette that a candidate for election to the Assembly Constituency in a Union Territory shall make and subscribe to oath; but this notification has been published in the Goa, Daman and Diu Government Gazette dated 2nd January 1964 much after the declaration of the election results.

7—That the said Returning officer sent his employee on 12th day of November 1963 to the residence of every candidate including to that of the petitioner in order to inform the petitioner that he has to subscribe to an oath before the Returning officer but as the petitioner was in Bombay he was immediately contacted on phone and was asked to come down to Goa in order to subscribe to the oath before 13th day of November 1963. Getting this message the petitioner immediately started to come to Goa by his car as the plane ticket was not available; but unfortunately the Petitioner met with an accident at Poona and the Petitioner arrived in Goa on 14th day of November 1963 at 3.30 p.m. and immediately made an application to the said Returning officer requesting him to condone the delay but the said Returning officer refused to condone it. Herewith annexed and marked Ex. * «A» is the true copy of the said application.

8—That the said Returning officer purporting to decide the said defect to the nomination of the petitioner as aforesaid, by his order dated 14th November 1963 rejected the nomination papers filed by the petitioner as aforesaid on the alleged ground that the petitioner has not subscribed to oath and is disqualified for being chosen under the Constitution as a member of the Legislative Assembly of the Union territory of Goa, Daman and Diu.

9—That the petitioner submits that his nomination papers were properly filled and filed by his said nominee and as it was not necessary according to the Election Law published in the Government Gazette to subscribe to an oath before the date of scrutiny, the Petitioner says that the Returning officer erred in rejecting the Petitioner's said nomination papers and he should have accepted them.

10—The first respondent was declared as the duly elected candidate for a seat in the Legislative Assembly of the Union territory of Goa, Daman and Diu, from the St. Estevam Constituency, and the said declaration was published in the Go-

vernment Gazette of Goa, Daman and Diu dated 14th day of December 1964.

11—Your petitioner begs to appeal from the order of the said Returning officer on the following, amongst other grounds:

- (a) That the nomination paper of the petitioner has been improperly rejected;
- (b) That there was no defect in the nomination papers and the alleged defect of not subscribing to the oath was venial and could have been cured by allowing the petitioner to sign the oath on any day before the date of election;
- (c) That the rejection of the petitioner's nomination paper was the result of misinterpretation of the provisions of rules and Law appertaining to the election or due to misconception of Powers vested in the Returning officer in this behalf;
- (d) That the notification relating to taking oath has been published in the Government Gazette of 2nd January 1964 and the petitioner is fully justified in not signing it before the date of scrutiny as there was no Valid Law to that effect on or before that date.

12—Your petitioner says that the rejection by the Returning officer of his nomination papers has materially affected the results of the election. Your petitioner further submits that the whole election is void, and the election of the first respondent is void.

13—Your petitioner has deposited Rs. 2000/- (Rupees two thousand) with the State Bank of India in favour of the Secretary to the Election Commission as security for cost of the petition, as required by Sec. 117 of the Representation of People Act 1951. The receipt showing that this amount has been deposited is enclosed herewith.

14—That the Petitioner prays that an Election Tribunal be appointed for the trial of his petition and further prays:

- (a) that it may be declared that the nomination papers of the petitioner have been improperly rejected;
- (b) that it may be declared that the election to Legislative Assembly of the Union Territory of Goa, Daman and Diu from St. Estevam Constituency is wholly void;
- (c) that it may be declared that the election of the first respondent as a returned candidate from the said Constituency of St. Estevam is void; and
- (d) that your petitioner may have such further and other reliefs as the nature of the case may require.

Petition drawn by:

U. B. Surlikar, Advocate, Rua Malaca, Panjim.
Advocate for the Petitioner.

Signed before me:—

Dated this 21st day of January 1964.

I, Francisco Menezes, residing at Altinho, Panjim do solemnly declare that what is stated in above Petition is true to my own knowledge and belief and I believe the same to be true.

Solemnly declared at Panjim aforesaid this 21st day of January 1964.

Francisco Menezes

Before me:

By Order,
ROSHAN LAL

Under Secretary, Election Commission, India.

* Not received.